
GROUND LEASE

BETWEEN

**LIVINGSTON COUNTY, KENTUCKY, BOARD OF
EDUCATION, AS LANDLORD**

AND

BIG RIVERS ELECTRIC CORPORATION, AS TENANT

PROPERTY LOCATED AT

**1370 U.S. Highway 60 East
Burna, KY 42028**

September 11, 2017

GROUND LEASE

THIS GROUND LEASE (this "Lease") is made and entered into as of the Effective Date (as defined in Section 16.15 below) by and between **LIVINGSTON COUNTY, KENTUCKY, BOARD OF EDUCATION**, having an address of 127 East Adair, Smithland, KY 42081 ("**Landlord**") and **BIG RIVERS ELECTRIC CORPORATION**, a not-for-profit Kentucky corporation, with its principal offices at 201 Third Street, Henderson, Kentucky 42420 ("**Tenant**").

ARTICLE I DEMISE OF PREMISES

For and in consideration of the covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, upon the following terms and conditions, approximately .025 acres lying and being in Burna, Livingston County, Kentucky, and being more particularly described on **Exhibit "A"** attached hereto and by this reference made a part hereof (the "**Land**"), together with all rights, easements and appurtenances pertaining thereto. The Land, all improvements now or hereafter located thereupon, and the appurtenances pertaining thereto are hereinafter collectively referred to as the "**Premises**".

ARTICLE II LEASE TERM

2.1 Term. The initial term ("Term") of this Lease shall be one (1) year commencing as of the Effective Date hereof. Thereafter, the Term of this Lease shall automatically renew for successive one (1) year Terms unless either party provides written notice to the other party of its intent to terminate this Lease at least ninety (90) days before the end of the then current Term.

ARTICLE III RENT

3.1 Rent. The Parties agree that the sole incentive for Landlord's entry into this agreement is to enhance the educational experience for students in the Livingston County School District, and the Landlord confirms the services received by the Landlord and its students are equal to or exceed the fair rental value of the leased premises. With this in mind, Landlord waives any monetary rental fees to be paid by Tenant. Landlord accepts that the anticipated benefit and (future) actual benefit to the students is sufficient consideration for Landlord to enter into this Lease.

ARTICLE IV
TAXES

4.1 Real Estate Taxes. From and after the Effective Date, Landlord shall pay all real estate taxes and assessments for betterments and improvements that are levied or assessed by any lawful authority on the Premises ("**Real Estate Taxes**") on or prior to the last day on which Real Estate Taxes can be paid without interest or penalty.

4.2 Personal Property Taxes. Tenant shall pay all personal property taxes assessed on Tenant's personal property on the Premises. If Landlord has paid any such tax in the first instance, as required by the applicable taxing authority, Tenant shall reimburse Landlord upon Tenant's receipt of paid invoices for such taxes, provided that Landlord shall give Tenant notice of any such tax prior to paying same.

ARTICLE V
UTILITIES

5.1 Utilities. From and after the Effective Date, Tenant shall pay the applicable utility companies or governmental agencies for any and all utilities consumed on the Premises by Tenant during the Term. Landlord shall not take or permit any person claiming under Landlord to take any action which shall interrupt or interfere with any utility service to the Premises.

ARTICLE VI
USE; COMPLIANCE WITH LAWS AND ASSIGNMENT; GRANT OF EASEMENTS

6.1 Use. The rights granted to Tenant in this Lease permit Tenant, without limitation, to construct, erect, install, operate, maintain, reinstall, enhance, replace, relocate and remove, from time to time, the Solar Power Facilities (as defined below) on the Premises or for any lawful purpose. The "**Solar Power Facilities**" shall include, without limitation, the following:

(a) meteorological and solar measuring equipment, including, but not limited to, insolation monitoring towers and all necessary and proper appliances and fixtures for use in connection with said towers, to determine the feasibility of solar energy conversion on the Property, on adjacent property or elsewhere;

(b) solar panels, inverters, steel racking, foundations and concrete pads, support structure, footings, anchors, fences and other fixtures and facilities, maintenance, security, office and/or guest facilities, staging areas for the assembly of equipment, power generation facilities to be operated in conjunction with large solar installations, control buildings, laydown areas, crane pads, and related facilities and equipment;

(c) electrical wires and cables required for the gathering and transmission of electrical energy and/or for communication purposes, which may be placed underground, and one or more substations or interconnection or switching facilities from which Tenant may

interconnect to a utility transmission or distribution system or the transmission or distribution system of another purchaser of electrical energy (collectively, “**Transmission Facilities**”), together with the appropriate rights of way on, along, in and under the Premises; and

(d) any other improvements, including, without limitation, buildings, structures, roads, facilities, machinery and equipment that Tenant reasonably determines are necessary, useful or appropriate to accomplish any of the foregoing.

6.2 Grant of Easements. In addition to and in connection with the leasehold interest granted to Tenant pursuant to this Lease and the permitted uses provided in Section 6.1 above, Landlord hereby grants and conveys to Tenant and its successors and assigns the following easements (collectively, the “**Easements**”) on, about, above, over, under, through and across any adjacent real property to the Premises owned or controlled by Landlord (the “**Remainder Property**”):

(a) The exclusive easement to the free and unobstructed insolation of solar energy over the entirety of the horizontal space and the entirety of the vertical air space lying above the surface of that portion of the Remainder Property for the benefit of the Premises to the minimum degree necessary to protect Tenant’s ability to use the Premises for Solar Power Facilities and in a manner so as to minimize, to the extent reasonably possible, interference with Landlord’s use of the Remainder Property; provided Landlord shall have the continued right to use the Remainder Property for any uses existing as of the Effective Date and any new uses which do not interfere with Tenant’s use of the Premises;

(b) The non-exclusive easement to use the Remainder Property related to Tenant’s construction, installation, operation, use, maintenance, repair or replacement of the Solar Power Facilities, including the Transmission Facilities, at such locations and in such a manner as proposed by Tenant and approved by Landlord, which approval shall not be unreasonably withheld, delayed or conditioned. Landlord’s disapproval shall be deemed reasonable if such construction, installation, operation, use, maintenance, repair or replacement unreasonably interferes with Landlord’s use of the Remainder Property.

(c) The non-exclusive easement over the Remainder Property to construct, use and maintain signs, fences, gates (whether locked or unlocked) and other safety and protection facilities around or about the Solar Power Facilities and/or to restrict access to portions of the Remainder Property around or about any of the Transmission Facilities at such locations and in such a manner as proposed by Tenant and approved by Landlord, which approval shall not be unreasonably withheld, delayed or conditioned. Landlord’s disapproval shall be deemed reasonable if such construction, installation, operation, use, maintenance, repair or replacement unreasonably interferes with Landlord’s use of the Remainder Property.

(d) The non-exclusive easement to enter the Remainder Property and to remove, trim, prune, top or otherwise control the growth of any tree, shrub, plant or other vegetation on or that intrudes (or upon maturity could intrude) into the Premises, or could

obstruct, interfere with or impair the Solar Power Facilities or the intended uses of the Premises by Tenant under this Lease; provided, however, that (i) Tenant shall provide Landlord with no less than thirty (30) days' advance notice before conducting any such actions, (ii) such actions shall be conducted to the minimum degree necessary to protect Tenant's ability to use the Premises for Solar Power Facilities and in a manner so as to minimize, to the extent reasonably possible, interference with Landlord's use of the Remainder Property (as defined below) and (iii) Tenant shall pay to Landlord the reasonable fair market value of any timber removed from the Remainder Property by Tenant.

The Easements granted by Landlord in this Agreement are easements appurtenant to the Premises, and the easements and other rights granted to Tenant herein are for the benefit of Tenant and its successors and assigns, as owner of the Solar Power Facilities. The Easements shall be memorialized in the Memorandum referred to in Section 16.3 below.

6.3 Assignment and Subletting. Tenant may not assign this Lease or sublet any portion of the Premises without Landlord's written consent. In no event shall Tenant be released from primary liability hereunder upon any such assignment or subletting; provided, however, in the event Landlord and any assignee modify or amend this Lease without Tenant's consent so as to increase the obligations of Tenant hereunder, Tenant's liability hereunder shall not be increased, but instead shall continue as it existed prior to such modification or amendment. Tenant shall be entitled to any and all rent and other consideration relating to any such subleasing or assignment.

6.4 Compliance with Requirements.

(a) Subject to the terms of Article XVIII below applicable to Hazardous Substances, Tenant shall, at Tenant's own cost and expense, comply with all Requirements. The term "**Requirements**" shall mean all requirements of all laws, orders, ordinances, rules and regulations of federal, state, county and municipal authorities and of any certificate of occupancy or other direction issued pursuant to law by any public officer or officers, which shall relate to the Premises or the use, occupancy or control thereof or the conduct of any business thereon, including those relating to or which necessitate structural changes or improvements or alteration, repair or removal of any improvements on any part of the Premises.

(b) Tenant shall have the right, at its own cost and expense, to contest or review by legal proceedings the validity, legality or applicability of any Requirement, and during such contest, Tenant may refrain from complying therewith, provided that such compliance may be deferred only if (i) neither Tenant nor Landlord will thereby be subjected to civil or criminal liability for failure to comply therewith and (ii) compliance may be so deferred without the incurrance of any lien, charge or liability of any kind against the Premises or any interest therein or part thereof, and (iii) Tenant prosecutes the contest in good faith and with due diligence. Tenant does hereby agree to indemnify and hold Landlord and the Premises harmless from any loss or damage (including but not limited to attorneys' fees and expenses, penalties, interest and court costs) occasioned by any violation of or failure to comply with any Requirement.

ARTICLE VII
MAINTENANCE AND REPAIRS

7.1 Tenant's Repairs. All development and construction on and to the Solar Power Facilities and the Transmission Facilities and all maintenance, repair and other work with respect thereto required hereunder shall be Tenant's sole responsibility and Landlord shall have no obligation with respect thereto, except as may be specifically otherwise set forth herein.

7.2 Alterations. Tenant shall have the right, at its sole cost, responsibility, and expense, to make at any time and from time to time, alterations to the Premises (including the construction and installation from time to time of one or more signs) without obtaining Landlord's consent, and to raze or demolish any existing improvements and construct other improvements on the Premises, so long as Tenant complies with the requirements of all Requirements and Approvals; provided, however, that Landlord's consent shall be required prior to the construction or installation of any signs, which consent shall not be unreasonably withheld, delayed or conditioned. Landlord shall cooperate with Tenant and shall execute all instruments necessary or appropriate to obtain all Approvals to make such alterations and improvements from the applicable governmental authorities to satisfy the Requirements. Without limiting the generality of the foregoing, Tenant shall have the right to install one or more sets of satellite receiving equipment or the like on the Premises.

7.3 Fixtures. Any trade fixtures, furniture, equipment and other personal property that Tenant places or installs in the Premises at its expense prior to or during the Term hereof shall remain Tenant's property and may be removed by Tenant.

ARTICLE VIII
INSURANCE

8.1 Tenant's Insurance. From and after the Effective Date, Tenant shall maintain the following insurance coverages:

(a) commercial general liability insurance, including, but not limited to contractual liability, covering the Premises with minimum limits of two million dollars (\$2,000,000.00) combined single limit per occurrence and in the aggregate as applicable for bodily injury, personal injury or property damage, with Landlord being named an additional insured;

(b) workers' compensation or similar coverage for the benefit of Tenant's employees, if any;

(c) "special form" property insurance on the Premises and on the betterments and improvements to the Premises whether made by Landlord or Tenant, in an amount not less than the replacement cost thereof, with Landlord being named an additional insured.

Notwithstanding anything to the contrary contained herein, Tenant shall have the right to self-insure all or any part of any of said insurance coverages, in Tenant's sole discretion, so long as Tenant maintains a net worth of not less than ten million dollars (\$10,000,000.00).

8.2 Insurance Certificates. All of the foregoing insurance policies required pursuant to Section 8.1 above will be written with companies of recognized standing and will provide that the party named as an additional insured shall be given a minimum of ten (10) days written notice by any such insurance company prior to the cancellation, termination or alteration of the terms or limits of such coverage. The insuring party will deliver to the other party copies of the foregoing insurance policies or certificates thereof within thirty (30) days of the Effective Date and evidence of all renewals or replacements of same not less than ten (10) days prior to the expiration date of such policies. All such policies may be maintained under a "blanket insurance policy" of the insuring party (or by self-insurance as to Tenant, as aforesaid).

ARTICLE IX DAMAGE OR DESTRUCTION

9.1 Damage and Destruction to Premises. If any of the Solar Power Facilities are damaged or destroyed during the Term (or any Option Term) by a casualty loss, Tenant shall have the right, in its sole and absolute discretion, to either (i) rebuild and restore same at its expense (and have full use of and right to apply any available insurance proceeds to such rebuilding and restoration), or (ii) terminate this Lease, without penalty, upon written notice to Landlord.

ARTICLE X EMINENT DOMAIN

10.1 Entire or Partial Termination. If the whole or any part of the Premises shall be taken or condemned by any competent authority for any public use or purposes during the Term of this Lease, Tenant shall have the right, in its sole and absolute discretion, to either (i) terminate this Lease, without penalty, upon written notice to Landlord, or (ii) in the event of a taking of less than all of the Premises, continue under this Lease with respect to the portion of the Premises not taken, with all payments due under this Lease to be equitably adjusted to reflect the reduction in the usable size of the Premises. As provided herein, Tenant reserves the right to claim and prosecute its claim in all appropriate courts and agencies for any award or damages based upon loss, damage or injury to its leasehold interest (as well as relocation and moving costs). In consideration of Tenant's payment for all the cost of construction of the Solar Power Facilities on the Premises, Landlord hereby assigns to Tenant all claims, awards and entitlements relating to Tenant's interest in the Premises and the Solar Power Facilities arising from the exercise of the power of condemnation or eminent domain.

10.2 Notice of Condemnation. In the event any action is filed to condemn the Premises, the Solar Power Facilities or Tenant's leasehold estate or any part thereof by any public or quasi-public authority under the power of eminent domain or in the event that an action

is filed to acquire the temporary use of the Premises, the Solar Power Facilities or Tenant's leasehold estate or any part thereto, or in the event that action is threatened or any public or quasi-public authority communicates to Landlord or Tenant its desire to acquire the temporary use thereof, by a voluntary conveyance or transfer in lieu of condemnation, either Landlord or Tenant shall give prompt notice thereof to the other. Landlord and Tenant shall each have the right, at its own cost and expense, to represent its respective interest in each proceeding, negotiation or settlement with respect to any taking or threatened taking. No agreement, settlement, conveyance or transfer to or with the condemning authority affecting Tenant's leasehold interest shall be made without the consent of Tenant.

ARTICLE XI DEFAULT

11.1 Remedies Upon Default. In the event that either party shall at any time be in default in the observance or performance of any of the covenants and agreements required to be performed and observed by that party hereunder and any such default shall continue for a period of thirty (30) days after written notice to the defaulting party and the defaulting party shall not thereafter cure such default (or does not within said period commence and diligently proceed to cure such default), the non-defaulting party shall be entitled at its election, in addition to all remedies otherwise provided in this Lease and otherwise available at law or in equity under the laws of the United States or the State in which the Premises is located:

(a) to bring suit for the collection of any amounts for which the defaulting party may be in default, or for the performance of any other covenant or agreement devolving upon the defaulting party, without terminating this Lease, and/or

(b) to terminate this Lease upon thirty (30) days written notice to the defaulting party without waiving the non-defaulting party's rights to damages for the defaulting party's failure to perform its obligations hereunder. In the event the non-defaulting party shall elect to terminate this Lease, all rights and obligations of the non-defaulting party, and of any permitted successors or assigns, shall cease and terminate, except that the non-defaulting party shall have and retain full right to sue for and collect all amounts for the payment of which the defaulting party shall then be in default and all damages to the non-defaulting party by reason of any such breach.

11.2 Remedies Cumulative. In the event that either Landlord or Tenant commences any suit for the collection of any amounts for which the other party may be in default or for the performance of any other covenant or agreement hereunder, the other party shall pay all reasonable attorneys' fees (as determined by a court of law) and other reasonable expenses incurred by the prevailing party enforcing such obligations and/or collecting such amounts, plus interest thereon at the Interest Rate. All remedies of Landlord and Tenant herein created or remedies otherwise existing at law or in equity are cumulative and the exercise of one or more rights or remedies shall not be taken to exclude or waive the right to the exercise of any other.

All such rights and remedies may be exercised and enforced concurrently and whenever and as often as either Landlord or Tenant shall, as applicable, deem necessary.

ARTICLE XII
QUIET ENJOYMENT

Landlord covenants and warrants that Landlord is the true and lawful owner in fee simple of the Premises subject only to Real Estate Taxes not yet due and payable and such other matters as will not materially interfere with Tenant's ability to use and operate the Premises for the purposes permitted by this Lease (the "**Permitted Exceptions**") and has good right and full power to let and lease the same. Without limitation of the foregoing, in no event shall Permitted Exceptions include any monetary liens affecting the Premises. Landlord agrees that, contingent upon Tenant's compliance with the terms of this Lease, Tenant shall quietly and peaceably hold, possess and enjoy the Premises for the full Term of this Lease without any hindrance or molestation by any party whomsoever, and Landlord will defend the title to the Premises and the use and occupancy of the same by Tenant against the lawful claims of all persons whomsoever, except those claiming by or through Tenant.

ARTICLE XIII
SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT

Tenant shall, upon the written request of Landlord, subordinate this Lease to the lien of any mortgage upon the Premises, provided that the holder of any such mortgage ("**Mortgagee**") shall enter into a written agreement reasonably satisfactory to Tenant providing that (i) in the event of foreclosure or other action taken under the mortgage by Mortgagee, this Lease and the rights of Tenant hereunder shall not be disturbed or diminished, but shall continue in full force and effect so long as Tenant complies with the terms hereof; (ii) such Mortgagee shall permit insurance proceeds and proceeds from condemnation awards to be used for any restoration and repair required by Article IX or Article X of this Lease; and (iii) Tenant shall attorn and recognize such Mortgagee as Landlord hereunder. As used herein, "mortgage" shall include mortgages, deeds of trust, deeds to secure debt or other similar instruments, and any modifications or extensions of same.

If Landlord sells, conveys or transfers its interest in the Premises or if any mortgagee of Landlord succeeds to Landlord's interest through foreclosure or deed in lieu thereof, Tenant shall attorn to such succeeding party as its landlord under this Lease promptly upon any such succession, provided that such succeeding party assumes all of Landlord's duties and obligations under this Lease.

ARTICLE XIV
TRANSFERS BY LANDLORD

Landlord shall have the unfettered right to transfer its fee interest in the Premises from time to time, but (i) no such transfer or sale of Landlord's interest hereunder shall release

Landlord from any of its obligations or duties hereunder prior thereto and (ii) such transferee shall assume Landlord's obligations under this Lease from and after the date of such transfer. Landlord shall be released of any ongoing obligations hereunder from and after the date of such transfer upon the assumption of all such obligations and duties by the transferee of Landlord pursuant to a written agreement reasonably satisfactory to Tenant.

ARTICLE XV
FENCING

Tenant shall, at its sole cost, install fencing around all or any portion of the Premises as Tenant deems necessary. Any fencing shall require the approval of Landlord, which approval shall not be unreasonably withheld, delayed or conditioned.

ARTICLE XVI
MISCELLANEOUS

16.1 Holding Over. In the event of Tenant's continued occupancy of the Premises after the expiration of the Term, or any earlier termination provided or permitted by this Lease, such tenancy shall be from month-to-month. All covenants, provisions, obligations and conditions of this Lease shall remain in full force and effect during such month-to-month tenancy.

16.2 Non-Waiver of Default. No acquiescence by either party to any default by the other party hereunder shall operate as a waiver of its rights with respect to any other breach or default, whether of the same or any other covenant or condition.

16.3 Memorandum of Lease and Deed of Easements. Concurrently with the full execution and delivery of this Lease, Landlord and Tenant shall execute in recordable form and Tenant shall then be entitled to immediately record (i) a memorandum or short form of the lease evidenced by this Lease and (ii) the Easements, all of which shall be reasonably satisfactory in form and substance to Tenant and Landlord (the "**Memorandum**") in the form of **Exhibit "B"**. Upon expiration or earlier termination of this Lease, Tenant will execute and record a termination of such Memorandum and a quitclaim deed to Landlord of all of Tenant's right, title and interest in and to the Easements, and in the event of a termination with respect to less than all of the Premises, only as to that portion of the Premises or those Easements which are terminated.

16.4 Notice. Any notice or consent required to be given by or on behalf of any party hereto to any other party shall be in writing and sent by (i) registered or certified mail, return receipt requested, (ii) delivered personally, including by air courier or expedited mail service, or (iii) delivered by facsimile, with a copy delivered by the method specified in item (ii) above within three (3) days of such facsimile, addressed as follows:

If to Landlord: Livingston County School Board
127 East Adair
Smithland, KY 42081
Fax:

If to Tenant: Big Rivers Electric Corporation
201 Third Street
Henderson, KY 42420
Fax: (270) 827-2101

or at such other address or facsimile number as may be specified from time to time in writing. All such notices hereunder shall be deemed to have been given on the date of delivery or the date marked on the return receipt unless delivery is refused or cannot be made because of any incorrect address provided by the addressee, in which case the date of postmark shall be deemed the date notice has been given. In the case of notices delivered by facsimile, notice shall be deemed to have been given at the time of receipt set forth on the confirmation generated by the transmitting facsimile machine, provided that a copy of such notice is delivered to the receiving party by the method specified in item (ii) above within three (3) days of such facsimile delivery.

16.5 Successors and Assigns. All covenants, promises, conditions, representations, and agreements herein contained shall be binding upon, apply and inure to the parties hereto and their respective heirs, executors, administrators, successors, and permitted assigns.

16.6 Time is of the Essence. Time is of the essence as to the performance of all of the covenants, conditions, and agreements of this Lease.

16.7 Partial Invalidity. If any provision of this Lease or the application thereof to any person or circumstance shall to any extent be held invalid, then the remainder of this Lease or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby, and each provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

16.8 Interpretation. In interpreting this Lease in its entirety, the printed provisions of this Lease and any additions written or typed thereon shall be given equal weight, and there shall be no inference, by operation of law or otherwise, that any provision of this Lease shall be construed against either party hereto.

16.9 Headings, Captions and References. The section captions contained in this Lease are for convenience only and do not in any way limit or amplify any term or provision hereof. The use of the terms "hereof," "hereunder" and "herein" shall refer to this Lease as a whole, inclusive of the Exhibits, except when noted otherwise. The use of the masculine or neuter genders herein shall include the masculine, feminine and neuter genders and the singular form shall include the plural when the context so requires.

16.10 Brokerage Commissions. Each party represents and warrants to the other that no real estate broker or agent (the "**Broker**") has been involved in the procurement of this Lease.

16.11 Governing Law. This Lease shall be construed under the laws of the state where the Premises are located.

16.12 Relationship of Parties. Nothing herein shall be construed so as to constitute a joint venture or partnership between Landlord and Tenant.

16.13 Force Majeure. In the event that either party shall be delayed or hindered in, or prevented from, the performance of any work, service, or other act required under this Lease to be performed by the party and such delay or hindrance is due to strikes, lockouts, acts of God, governmental restrictions, enemy act, civil commotion, fire or other casualty, or other causes of a like nature beyond the control of the party so delayed or hindered, then performance of such work, service, or other act shall be excused for the period of such delay and the period for the performance of such work, service, or other act shall be extended for a period equivalent to the period of such delay. In no event shall a lack of financing be deemed an unavoidable delay hereunder.

16.14 Estoppel Certificates. Within twenty (20) days after the request by either party, the other party agrees to deliver to the requesting party and to any potential mortgagee, assignee or purchaser of the requesting party's interest in the Premises an estoppel certificate, in form and substance reasonably satisfactory to both parties, certifying that this Lease is unmodified and in full force and effect (or, if there have been modifications, whether same is in full force and effect as modified, and stating the modifications); that, to the certifying party's reasonable knowledge and belief, there are no defenses or offsets thereto (or stating those claimed by the certifying party); that there are no defaults by the certifying party or, to the reasonable knowledge and belief of the certifying party, on the part of the requesting party (or, if such defaults exist, stating their nature); and such other matters as the requesting party may reasonably request; provided, however, that no such estoppel certificate shall be deemed to amend or modify this Lease.

16.15 Effectiveness and Effective Date. The effectiveness of this Lease and the parties' obligations hereunder are subject to the receipt of any required authorization, consent, order, finding, decision or other action (an "Approval") of the Kentucky Department of Education, the Kentucky Public Service Commission, and any other governmental authority required to approve, authorize or consent to the execution, delivery and performance of this Lease. The "**Effective Date**" of this Lease shall be the date upon the parties' receipt of all required Approvals.

16.16 Grant of Easements. Tenant is hereby authorized to grant easements across and under the Premises, for the installation, construction, maintenance, repair and replacement of sewer and other utility lines, for rights of way and for other means of ingress and egress, and Landlord covenants that Landlord will, upon request of any party to whom any such easement is granted, join in the execution of such easements.

16.17 Time Periods. If the time period by which any right, option or election provided under this Lease must be exercised, or by which any act required hereunder must be performed, expires on a Saturday, Sunday or legal or bank holiday, then such time period shall be automatically extended through the close of business on the next regularly scheduled business day.

16.18 Counterparts. This Lease may be executed in several counterparts, each of which may be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

ARTICLE XVII TERMINATION OF LEASE

Notwithstanding that the Lease is in full force and effect as of the Effective Date, Tenant shall have the right to terminate the Lease as follows:

17.1 Title.

(a) Landlord covenants and agrees that it shall lease the Premises to Tenant free and clear of all liens, encumbrances, and other exceptions to title except the Permitted Exceptions (subject to Tenant's right to object thereto pursuant to subsection 17.1(b) below). Landlord shall deliver to Tenant upon request an affidavit acceptable to Tenant and the title insurance company selected by Tenant (the "**Title Company**") stating that Landlord has sole and exclusive possession of the Premises and stating, among other things which may be reasonably required by Tenant and the Title Company, that either (i) there have been no improvements, additions, alterations, repairs or any changes of any kind whatsoever made to the Premises during the last four (4) months immediately preceding the date of such affidavit (or such longer period during which construction liens can be filed under applicable law) or (ii) if there have been any such improvements or repairs, that all lienors or potential lienors in connection with such improvements or repairs have been paid in full. Landlord agrees to cooperate in a reasonable manner with Tenant in satisfying those requirements imposed by the Title Company which are typically satisfied by landlords as to leasehold policies, including without limitation, proof of authority of Landlord to execute the Lease and like matters.

(b) Tenant shall have until the expiration of the Inspection Period (as defined below) to examine title to the Premises and obtain a survey thereof and notify Landlord of any objectionable matter or defect which, in Tenant's sole and absolute discretion, affects the insurability of the leasehold title to the Premises or which adversely affects the use of the Premises in accordance with this Lease. In the event Landlord is notified of any such objectionable matters, Landlord agrees to promptly employ commercially reasonable efforts to procure a cure for same (which shall include the payment of money with respect to any existing deeds to secure debt, mortgages, deeds of trust, liens or other matters that can be removed by the payment of money). In the event, however, Landlord is unable through the exercise of such

commercially reasonable efforts to cure any objectionable matter prior to the Effective Date, then at Tenant's option, Tenant may either: (i) take leasehold title to the Premises despite the existence of such matter, (ii) remove such objectionable matter or (iii) terminate this Lease, whereupon Tenant shall pay Landlord the sum of \$100 as independent consideration and this Lease shall be of no further force or effect and neither party hereto shall have any further liability to the other party.

17.2 Inspection Period. From and after the Effective Date, Tenant shall have the right to enter upon the Premises for the purpose of performing such surveys, soil tests, environmental tests, and other due diligence activities as Tenant may desire, in its sole discretion. Tenant agrees to indemnify, defend and hold Landlord harmless from and against any and all losses, claims, costs, damages, and expenses incurred or suffered by Landlord in connection with Tenant's inspection activities. In the event Tenant determines, in its sole and absolute discretion, that any aspect of the Premises is not satisfactory for Tenant's use of the Premises or if Tenant desires to terminate this Lease for any reason or for no reason, Tenant may notify Landlord within ninety (90) days after the Effective Date (the "**Inspection Period**") that Tenant is terminating this Lease, whereupon Tenant shall pay Landlord the sum of \$100 as independent consideration and this Lease shall be of no further force or effect and neither party hereto shall have any further liability to the other party. Failure of Tenant to so notify Landlord prior to the expiration of the Inspection Period shall be deemed a waiver of such condition.

17.3 Development Period. The "**Development Period**" means the period commencing on the day following the expiration date of the Inspection Period and, unless earlier terminated pursuant to the terms of this Lease, expiring on the earlier of the following: (a) notice by Tenant of termination of this Lease, (b) the receipt by Tenant of all Non-Appealable Entitlements (hereinafter defined) necessary to construct, own, and operate the Solar Power Facilities, or (c) eighteen (18) months after commencement of the Development Period. As used herein, "**Non-Appealable Entitlements**" means all applications, approvals, authorizations, consents, filings, licenses, orders, permits or similar requirements imposed by any government agency, or otherwise required or deemed desirable by Tenant, in order to develop, install, construct, use, operate, replace, relocate or maintain the Solar Power Facilities, including an executed power purchase agreement and an interconnection agreement, subject to the condition that all such entitlements are no longer subject to appeal or challenge. During the Inspection Period and the Development Period, Landlord shall reasonably cooperate with Tenant as necessary in complying with or obtaining the Non-Appealable Entitlements. Tenant shall reimburse Landlord for its reasonable and documented costs and expenses directly incurred by Landlord in connection with such cooperation, to the extent Tenant has approved such expenses in advance in writing. Tenant may notify Landlord prior to the expiration of the Development Period that Tenant is terminating this Lease, whereupon Tenant shall pay Landlord the sum of \$100 as independent consideration and this Lease shall be of no further force or effect and neither party hereto shall have any further liability to the other party. Failure of Tenant to so notify Landlord prior to the expiration of the Development Period shall be deemed a waiver of such termination right.

ARTICLE XVIII
HAZARDOUS SUBSTANCES

18.1 Landlord warrants and represents to Tenant that the Premises do not now nor have they ever contained any Hazardous Substances (as defined in Section 18.2 below) or any fuel storage tanks and that Landlord has not caused or permitted any such Hazardous Substances to be released, discharged or deposited onto or within the bounds of the Premises. Landlord warrants and represents further that (i) Landlord and/or the Premises are not subject to any existing, pending or threatened investigation by any governmental authority under any applicable federal, state or local law, regulation or ordinance pertaining to air and water quality, the handling, transportation, storage, treatment, usage, or disposal of Hazardous Substances, air emissions, and other environmental matters, (ii) any handling, transportation, storage, treatment, or use of Hazardous Substances that has occurred on the Premises to date has been in compliance with all applicable federal, state, and local laws, regulations and ordinances, and (iii) no leak, spill, release, discharge, emission, or disposal of Hazardous Substances has occurred on the Premises to date.

18.2 "**Hazardous Substances**" for purposes of this Lease shall be interpreted broadly to include, but not be limited to, any material or substance that is defined, regulated or classified under federal, state, or local laws as: (a) a "hazardous substance" pursuant to section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601(14), section 311 of the Federal Water Pollution Control Act, 33 U.S.C. §1321, as now or hereafter amended; (b) a "hazardous waste" pursuant to section 1004 or section 3001 of the Resource Conservation and Recovery Act, 42 U.S.C. §§6903, 6921, as now or hereafter amended; (c) a toxic pollutant under section 307(a)(1) of the Federal Water Pollution Control Act, 33 U.S.C. §1317(a)(1); (d) a "hazardous air pollutant" under section 112 of the Clean Air Act, 42 U.S.C. §7412, as now or hereafter amended; (e) a "hazardous material" under the Hazardous Materials Transportation Uniform Safety Act of 1990, 49 U.S.C. App. §1802(4), as now or hereafter amended; (f) toxic or hazardous pursuant to regulations promulgated now or hereafter under the aforementioned laws or any state or local counterpart to any of the aforementioned laws; or (g) presenting a risk to human health or the environment under other applicable federal, state or local laws, ordinances, or regulations, as now or as may be passed or promulgated in the future. Hazardous Substances shall also mean any substance that after release into the environment and upon exposure, ingestion, inhalation, or assimilation, either directly from the environment or directly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer, or genetic abnormalities. Hazardous Substances specifically include, but are not limited to, asbestos, polychlorinated biphenyls, radioactive materials including naturally occurring radionuclides, petroleum and petroleum-based derivatives, and urea formaldehyde.

18.3 If at any time Hazardous Substances are determined to be present on the Premises (other than Hazardous Substance introduced by or on behalf of Tenant), Landlord shall take all steps necessary to promptly remove or otherwise abate all such Hazardous Substances in accordance with all rules, regulations and laws. Landlord shall use its best efforts not to

materially interfere with the conduct of Tenant's business during any such removal or abatement process. If Tenant determines that Landlord is unable or unwilling to take such steps to correct the Hazardous Substance condition and if Tenant determines in its reasonable judgment that said condition has or will have a material negative impact upon the conduct of Tenant's business, then Tenant may elect to terminate this Lease without further liability to Tenant upon giving Landlord at least thirty (30) days written notice of its intention to do so. Notwithstanding the foregoing, if Landlord is able to demonstrate to Tenant's reasonable satisfaction that Landlord is able to correct the Hazardous Substance condition within a reasonable period of time and Landlord is diligently pursuing such correction, Tenant shall have no right to terminate the Lease. Nothing herein shall be deemed to limit any other rights or remedies to which Tenant may be entitled by reason of the existence of Hazardous Substance.

18.4 Tenant covenants and agrees not to suffer, permit, introduce or maintain in, on or about any portion of the Premises any Hazardous Substances except in compliance with all applicable laws. Tenant further covenants and agrees to indemnify, protect and save Landlord harmless against and from any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements or expenses of any kind or of any nature whatsoever (including, without limitation, attorneys' and experts' fees and disbursements) which may at any time be imposed upon, incurred by or asserted or awarded against Landlord and arising from or out of any Hazardous Substances on, in, under or affecting all or any portion of the Premises introduced by, or on behalf of, Tenant including, without limitation, (i) the costs of removal of any and all Hazardous Substances from all or any portion of the Premises, (ii) additional costs required to take necessary precautions to protect against the release of Hazardous Substances on, in, under or affecting the Premises into the air, any body of water, any other public domain or any surrounding areas, and (iii) any costs incurred to comply, in connection with all or any portion of the Premises, with all applicable laws, orders, judgments and regulations with respect such Hazardous Substances introduced by, or on behalf of, Tenant.

18.5 The provisions of this Article XVIII shall survive the expiration or earlier termination of this Lease.

ARTICLE XIX LANDLORD'S REPRESENTATIONS

Landlord represents and warrants to Tenant as follows:

19.1 The person signing this Lease has the full power and authority to execute this Lease, lease the Premises in accordance herewith and to otherwise perform the obligations of Landlord hereunder, without the necessity of obtaining consent from any third party, including, without limitation, any partner or lender. Landlord (i) has complete and full authority to execute this Lease and to lease to Tenant good and marketable leasehold title to the Premises, which is free and clear of all liens, encumbrances and other exceptions to title except for the Permitted Title Exceptions, (ii) will execute and deliver such other documents, instruments, agreements, including but not limited to affidavits and certificates necessary to effectuate the transaction

contemplated herein, and (iii) will take all such additional action necessary or appropriate to effect and facilitate the consummation of the lease transaction contemplated herein.

19.2 To the best of Landlord's knowledge, there is no action, litigation, suit, proceeding or investigation pending or threatened by any organization, person, individual or governmental agency, including, without limitation, governmental actions under condemnation authority or proceedings similar thereto, which affects the Premises (or any portion thereof) or Landlord which would become a cloud on the title to the Premises or any portion thereof or which questions the validity or enforceability of the transaction contemplated by this Lease or any action taken pursuant hereto in any court or before or by any federal, district, county, or municipal department, commission, board, bureau, agency or other governmental instrumentality.

19.3 Landlord has not received notice of any violations of law, municipal or county ordinances, or other legal requirements with respect to the Premises or with respect to the occupancy or construction thereon.

19.4 Landlord is not a "foreign person" as that term is defined in the Internal Revenue Code Section 1445(f)(3), nor is the lease of the Premises subject to any withholding requirements imposed by the Internal Revenue Code, including, but not limited to, Section 1445 thereof.

19.5 The Premises has currently and shall, as of the Effective Date, have direct access to and from U.S. Hwy 60 East in Burna, Kentucky.

19.6 The Premises are free and clear of any leases, tenancies or claims of parties in possession.

19.7 This Lease and the rights granted to Tenant hereunder shall not violate and are not inconsistent with any other lease or agreement relating to the Premises.

ARTICLE XX
OWNERSHIP OF SOLAR POWER FACILITIES

20.1 Ownership of Solar Power Facilities. Title to the Solar Power Facilities has been and is reserved to Tenant and the Solar Power Facilities at all times shall remain the sole property of Tenant. Tenant may add or remove all or any portions of the Solar Power Facilities at any time during the Term of this Lease, irrespective of the manner or method of attachment of the same to the Premises. Landlord shall have no ownership or other interest in any Solar Power Facilities installed on the Premises or any environmental attributes produced therefrom, including, without limitation, any and all credits (including tax credits, carbon credits, renewable energy credits), rebates, incentives, benefits, emissions reductions, entitlements, offsets and allowances of any kind, howsoever entitled, attributable to the Solar Power Facilities or the

electric energy, capacity or other generator-based products produced therefrom, whether in effect as of the Effective Date or as may come into effect in the future.

20.2 Operation of the Solar Power Facilities. The manner of operation of the Solar Power Facilities, including, but not limited to, decisions on when to conduct maintenance, is within the sole and absolute discretion of Tenant.

20.3 Removal of the Solar Power Facilities. Tenant shall have the right, in its sole and absolute discretion, to remove the Solar Power Facilities or any part thereof and any related equipment from the Premises at any time. Upon expiration of the Lease or earlier termination of this Lease, Tenant shall remove all of the Solar Power Facilities (excluding wholly underground wiring and cabling) from the Premises. At the sole cost of Tenant, the soil surface of the Premises shall be returned to substantially the same condition as existed on the date possession of the Premises is delivered to Tenant; provided, however, that all concrete mountings shall be removed to a depth of at least three (3) feet below surface grade, and that any underground cabling or wiring at a depth of three (3) feet or greater may be abandoned in place if they are not a hazard and do not interfere with agricultural use or other consistent resource uses of the land. If Tenant fails to remove such Solar Power Facilities within six (6) months of termination of this Lease, Landlord may do so, in which case Tenant shall reimburse Landlord for reasonable and actual costs of removal incurred by Landlord, less any salvage value received by Landlord, within thirty (30) days after receipt of an invoice from Landlord.

IN WITNESS WHEREOF Landlord and Tenant have caused their duly authorized representatives to execute and deliver this Lease under seal as of the Effective Date.

LANDLORD/GRANTOR:

LIVINGSTON COUNTY, KENTUCKY, BOARD OF EDUCATION,

By: Victor Zimmerman

Name: Victor Zimmerman

Title: Superintendent

TENANT/GRANTEE:

BIG RIVERS ELECTRIC CORPORATION

By: _____

Name: Mark Eacret

Title: Vice President Energy Services

List of Exhibits

- Exhibit "A" Description of the Land
- Exhibit "B" Form of Memorandum of Lease

EXHIBIT "A"

Description of the Land

**Livingston County Middle School – 10 KW Array
1370 U.S. Highway East
Burna, KY 42028**

Approximately .025 acres with the exact location to be agreed upon by the parties and subsequently more particularly described by the footprint of the solar panels that are to be located on Landlord's property and being a portion of:

BEGINNING at corner to Jack Bussey land and State Road; thence N 2½ W 1498 feet corner to V.F. Phillips; thence with Phillips S 74 E 2323 feet corner to American Legion line S 22 W 931 feet to State Road (Jack Bussey road) thence with said road due West 1815 feet to point of beginning, containing 55 acres more or less.

Being a part of the same conveyed to Livingston County Board of Education by deed from Livingston County Fiscal Court dated April 14, 2009 and which deed is of record in the office of the clerk of the Livingston County Court in Deed Book No. 232, Page No. 443.

EXHIBIT "B"

Form of Memorandum of Lease and Deed of Easements

RECORDING REQUESTED BY, AND)
WHEN RECORDED RETURN TO:)
)
Sullivan Mountjoy, Stainback & Miller, PSC)
P.O. Box 727)
Owensboro, Kentucky 42302-0727)
Attention: Tyson Kamuf)

MEMORANDUM OF LEASE AND DEED OF EASEMENTS

THIS MEMORANDUM OF LEASE AND DEED OF EASEMENTS (“Memorandum of Lease”) is made and entered into effect as of the 11th day of September, 2017, by and between LIVINGSTON COUNTY, KENTUCKY, BOARD OF EDUCATION, having an address of 127 East Adair, Smithland, KY 42081 (“Landlord/Grantor”) and BIG RIVERS ELECTRIC CORPORATION, a not-for-profit Kentucky corporation, with its principal offices at 201 Third Street, Henderson, Kentucky 42420 (“Tenant/Grantee”).

1. **TERM AND PREMISES.** For and in consideration of the execution of that certain written lease of even date herewith from Landlord/Grantor to Tenant/Grantee (“Lease”), for the initial term (“Term”) of one (1) year commencing as of the Effective Date thereof, said Term automatically renewing for successive one (1) year Terms unless either party provides written notice to the other party of its intent to terminate the Lease at least ninety (90) days before the end of the then current Term, and upon the provisions set forth in the Lease, all of which provisions are specifically made a part hereof as fully and completely as if set out in full herein, Landlord/Grantor leases to Tenant/Grantee and Tenant/Grantee leases from Landlord/Grantor approximately .025 acres described on **Exhibit "A"** hereto (the "Premises"), together with all rights of ingress and egress and all other rights appurtenant to said Premises, all of which rights are more particularly described in the Lease.

2. In addition to and in connection with the leasehold interest granted to Tenant pursuant to the Lease and for and in consideration of the execution of the Lease, Landlord grants and conveys to Tenant and its successors and assigns the following permanent easements on, about, above, over, under, through and across certain real property owned or controlled by Landlord, which real property is more particularly described on **Exhibit "B"** hereto (the “Remainder Property”):

(a) The exclusive easement to the free and unobstructed insolation of solar energy over the entirety of the horizontal space and the entirety of the vertical air space lying above the surface of that portion of the Remainder Property for the benefit of the Premises to the minimum degree necessary to protect Tenant's ability to use the Premises for Solar Power Facilities (as defined in Article VI of the Lease) and in a manner so as to minimize, to the extent reasonably possible, interference with Landlord's use of the Remainder Property; provided Landlord shall have the continued right to use the Remainder Property for any uses existing as of the Effective Date of the Lease and any new uses which do not interfere with Tenant's use of the Premises;

(b) The non-exclusive easement to use the Remainder Property related to Tenant's construction, installation, operation, use, maintenance, repair or replacement of the Solar Power Facilities, including the Transmission Facilities, (as defined in Article VI of the Lease) at such locations and in such a manner as proposed by Tenant and approved by Landlord, which approval shall not be unreasonably withheld, delayed or conditioned. Landlord's disapproval shall be deemed reasonable if such construction, installation, operation, use, maintenance, repair or replacement unreasonably interferes with Landlord's use of the Remainder Property.

(c) The non-exclusive easement over the Remainder Property to construct, use and maintain signs, fences, gates (whether locked or unlocked) and other safety and protection facilities around or about the Solar Power Facilities and/or to restrict access to portions of the Remainder Property around or about any of the Transmission Facilities at such locations and in such a manner as proposed by Tenant and approved by Landlord, which approval shall not be unreasonably withheld, delayed or conditioned. Landlord's disapproval shall be deemed reasonable if such construction, installation, operation, use, maintenance, repair or replacement unreasonably interferes with Landlord's use of the Remainder Property.

(d) The non-exclusive easement to enter the Remainder Property and to remove, trim, prune, top or otherwise control the growth of any tree, shrub, plant or other vegetation on or that intrudes (or upon maturity could intrude) into the Premises, or could obstruct, interfere with or impair the Solar Power Facilities or the intended uses of the Premises by Tenant under this Lease; provided, however, that (i) Tenant shall provide Landlord with no less than thirty (30) days' advance notice before conducting any such actions, (ii) such actions shall be conducted to the minimum degree necessary to protect Tenant's ability to use the Premises for Solar Power Facilities and in a manner so as to minimize, to the extent reasonably possible, interference with Landlord's use of the Remainder Property and (iii) Tenant shall pay to Landlord the reasonable fair market value of any timber removed from the Remainder Property by Tenant.

3. USE. Reference is particularly made to Article VI of the Lease wherein Tenant/Grantee is granted the right to use the Premises for the Solar Power Facilities as described therein and for any lawful purpose.

4. PURPOSE OF MEMORANDUM OF LEASE. This Memorandum of Lease is prepared for the purposes of recording a notification as to the existence of the Lease but in no way modifies the express and particular provisions of the Lease.

5. CONSIDERATION STATEMENT. Landlord/Grantor and Tenant/Grantee hereby certify that the consideration reflected herein is the full consideration for the Lease and grant of easements.

6. PROPERTY TAX BILLS.

(a) The in-care-of name and address to which property tax bills for the Premises for this and future years should be sent is: Livingston County, Kentucky, School Board, 127 East Adair, Smithland, Kentucky 42081.

(b) The in-care-of name and address to which property tax bills for the Remainder Property for this and future years should be sent is: Livingston County, Kentucky, School Board, 127 East Adair, Smithland, Kentucky 42081.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representative to execute and deliver this Memorandum of Lease as of the day and year first above written.

LANDLORD/GRANTOR:

LIVINGSTON COUNTY, KENTUCKY, BOARD OF EDUCATION,

By: _____

Name: Victor Zimmerman

Title: Superintendent

TENANT/GRANTEE:

BIG RIVERS ELECTRIC CORPORATION

By: _____

Name: Mark Eacret

Title: Vice President Energy Services

COMMONWEALTH OF KENTUCKY)
COUNTY OF LIVINGSTON)

SUBSCRIBED, SWORN AND ACKNOWLEDGED TO before me this 1st day of September, 2017, by Victor Zimmerman as Superintendent of Livingston County, Kentucky, Board of Education, Landlord/Grantor.

Notary Public, _____
My commission expires: _____
Notary ID: _____

COMMONWEALTH OF KENTUCKY)
COUNTY OF HENDERSON)

SUBSCRIBED, SWORN AND ACKNOWLEDGED TO before me this ____ day of September, 2017, by Mark J. Eacret as Vice President Energy Services of Big Rivers Electric Corporation, Tenant/Grantee.

Notary Public, _____
My commission expires: _____
Notary ID: _____

THIS INSTRUMENT PREPARED WITHOUT BENEFIT OF TITLE EXAMINATION BY:

Tyson Kamuf, Esq.
Sullivan, Mountjoy, Stainback & Miller, P.S.C.
100 St. Ann Street, P.O. Box 727
Owensboro, Kentucky 42302-0727

EXHIBIT "A" TO MEMORANDUM OF LEASE AND DEED OF EASEMENTS

Description of Premises

**Livingston County Middle School – 10 KW Array
1370 U.S. Highway 60 East
Burna, KY 42028**

Approximately .025 acres with the exact location to be agreed upon by the parties and subsequently more particularly described by the footprint of the solar panels that are to be located on Landlord's property and being a portion of:

BEGINNING at corner to Jack Bussey land and State Road; thence N 2½ W 1498 feet corner to V.F. Phillips; thence with Phillips S 74 E 2323 feet corner to American Legion line S 22 W 931 feet to State Road (Jack Bussey road) thence with said road due West 1815 feet to point of beginning, containing 55 acres more or less.

Being a part of the same conveyed to Livingston County Board of Education by deed from Livingston County Fiscal Court dated April 14, 2009 and which deed is of record in the office of the clerk of the Livingston County Court in Deed Book No. 232, Page No. 443.

EXHIBIT "B" TO MEMORANDUM OF LEASE AND DEED OF EASEMENTS

Description of the Remainder Property

**Livingston County Middle School – 10 KW Array
1370 U.S. Highway 60 East
Burna, KY 42028**

BEGINNING at corner to Jack Bussey land and State Road; thence N 2½ W 1498 feet corner to V.F. Phillips; thence with Phillips S 74 E 2323 feet corner to American Legion line S 22 W 931 feet to State Road (Jack Bussey road) thence with said road due West 1815 feet to point of beginning, containing 55 acres more or less.

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